



**STRATEGY
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THE FUTURE OF AFFIRMATIVE ACTION

BY

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United States Navy

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ABSTRACT

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Are government sponsored affirmative action programs effective in elevating race awareness and achieving positive race relations in America? This study critically examines affirmative action and whether these programs should be continued. While tremendous progress has been made since the Civil War and the Emancipation Proclamation we remain a divided society. We live in separate communities, achieve at different rates in school, and our economic state is somewhat determined by our skin color. We are not a color blind society. The statistics tell us we are not. Americans must dialogue and raise the race relation discussion to a responsible level of debate. Affirmative action could provide the center of gravity for this discussion.

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INTRODUCTION

"You do not take a person who, for years, has been hobbled by chains and liberate him, bring him to the starting line of a race and then say, 'You are free to compete with all others' and still justly believe you have been completely fair."¹ President Lyndon Johnson, 1965.

The expression "angry white male" has become synonymous with the frustration experienced by caucasian males due to perceived job or college admissions preferences afforded minorities. As Americans experience economic uncertainty, as a result of the transformation of our economy from a heavy industrial based economy to a service related economy, the frustrations of job loss or the loss of wages ignites this angry response. It is easy for individuals to blame an identifiable group for these losses. Are white males being treated unfairly in the workplace and educational institutions?

I grew up in a all white inner city neighborhood. As a child and even young adult, I never tried to understand the differences between being white or black. I played sports, I competed academically, and today, I serve my country with people of color. I debated both sides of the affirmative action issue with equal fervor but I never took the time to research the issue. My life experience was all that I needed. As I reflect back on my experiences, within the context of my research, I replay vivid memories of overt race based incidents that occurred in my presence. These incidents were not necessarily racist, but misunderstandings of our differences as individuals and the profound cultural differences we experience as members of a

particular group or race.

Some of these incidents involved the grouping of a race, as if all Black or Asian or Caucasian people think and/or act collectively; insensitive comments; or personal reactions based on race alone. Most of the time these incidents occurred because of a lack of understanding, familiarity or sensitivity. I do not believe that most Americans are racists, at least not intentionally.

Racism is defined in Webster's as:

"the assumption that psychocultural traits and capacities are determined by biological race and that races differ decisively from one another which is usually coupled with a belief in the inherent superiority of a particular race and its right to domination over others." ²

Racists and racism do exist in America, but the focus of this paper is not the type of overt racism practiced by these white supremacy groups (i.e.: Klu Klux Klan or Nazism). Most Americans would not align themselves with these racist or bigoted groups. They would reject government policies that codify racism. But, the discussion of race does result in discomfort or tension. This discomfort or tension leads us away from a discussion and the opportunity to better understand each other.

THESIS

This paper demonstrates a need to continue government sponsored affirmative action programs. Currently, American society, as a whole, is withdrawing its support of race based

affirmative action. The recognition of race as a predominate factor in the success or failure of an individual is critical to re-energize support of affirmative action. The Constitution states that, " all men are created equal." If all men in America are created equal, and all are given an equal chance to achieve, then logically, the relative success of any group should be approximately equal to that of any comparable group. This is not the current situation. Even Shelby Steele, a well known anti-affirmative action activist and a Black English professor at San Jose State University, California, writes, " Tragically, there is a real anti-black sentiment in American life, but it is no longer as powerful as we remember it to be."³ Yes, our society has come a long way in the past 140 years but, we still have not achieved equality.

HISTORY OF AFFIRMATIVE ACTION

Broken promises and unfulfilled programs litter the past 140 years. Currently, Americans seem poised to take a step back from government programs that have been in effect for less than thirty years. The full effect of current affirmative action programs, born out of the protests of the 1950's and 60's, are only beginning to impact the workplace. Minority people, who may have benefitted their whole lives from desegregation, busing and college admission programs are now 25 to 30 years old and are only beginning their working careers. Will they progress up the ladder of success based solely on their abilities or will they be

denied opportunities due to the color of their skin? If history repeats itself, some progress will be made by the current generation but that does not necessarily mean equality will be achieved.

During Reconstruction, Black Americans were given the right to own land, to vote, and were recognized as full citizens. But, this government recognition obtained through the thirteenth, fourteenth, and fifteenth amendments did little to amend for generations of slavery or provide a base for economic freedom. When President Johnson ordered all land returned to returning Confederate soldiers, the promise of "forty acres and a mule", the economic hope for freedmen, was quickly dispelled. As sharecroppers, the economic future was dim.⁴ If the former slave would have been given this opportunity to own land and work for himself, would we be a different country today?

Two other opportunities to integrate American society through the work force coincided with the World Wars. Labor shortages and economic expansion resulted in a unique opportunity to provide Black Americans with good paying jobs. During the First World War, industry opted to hire recent rural European immigrants, equally untrained and uneducated, rather than open the industry to black American citizens. During World War II, the contradictions of fighting Fascism with a Jim Crow Army and Navy are obvious. Blacks did make inroads during the war; a million and a half were part of the war-production work force.⁵ The "Fair Employment Practice Commission" was established during the war by

President Roosevelt, but it was given no real power, and was quickly dismantled in 1946. Black soldiers returned, once again, to second class citizenship.

The most recent opportunity is now also waning. Born of the Civil Rights movement of the 1950's and 60's, federal legislation brought us busing, forced integration of federal work spaces and schools, the Equal Housing Act and a bevy of state and federal affirmative action programs. The current popular and political support of these programs is wavering. States have begun passing initiatives or legislation to strip all state laws of affirmative action programs.

In March 1996, the Pennsylvania lower house passed legislation that would prohibit any preferential treatment or discrimination in education, employment, or contracting. Backed by conservative democrats and republicans, this highly politicized legislation ignores the statistics of Pennsylvania's own work force. According to the 1990 census, Pennsylvania's minority population is 13.2 percent of the total population, yet minorities comprise only 5.7 percent of the state's work force.⁶ The House where the very debate occurred is comprised of only 9.0 percent minorities.⁷ Some even argued that reverse discrimination is taking place, denying qualified white males jobs. The statistics simply do not support this political rhetoric. Legislation has been passed in Pennsylvania to abandon affirmative action in favor of anti-discriminatory laws.

Professor Mike Urofsky of Virginia Commonwealth University

explained the difference: "The anti-discrimination laws say you can't close the doors to minorities . . . affirmative action says you've got to open the doors and invite them in. There's a difference."⁸ Only twenty years ago Pennsylvania had to be forced to open the door to the state police force. After failing to follow a court order and hire minorities, a federal judge took control of hiring practices and forced the hiring of minorities. This is not a state which voluntarily sought out minorities to work as state employees (policemen).

SUPREME COURT

The Supreme Court has fumbled back and forth on affirmative action cases, rendering decisions based somewhat on the conservative/liberal composition of the Court. In the 1979 case of *United Steel Workers of America v. Weber* the Court approved a training program designed to equalize the percentage of skilled black workers to that of the local labor force, because it was a temporary measure.⁹ In the 1983 case of *Bob Jones University v. United States* the Court ruled by an eight to one vote that the Reagan administration had violated the law granting tax exempt status to schools and nonprofit institutions that engage in discrimination.¹⁰ Both of these cases, brought before a liberal leaning Court, were victories for affirmative action supporters.

With the confirmation of Justice Kennedy in February 1987 the Court turned right, as there were now five conservative justices.¹¹ They wasted little time in reviewing key civil rights

legislation. In the *Patterson v. McLean Credit* case the Court issued a brief order to Patterson's attorneys instructing them to file new briefs which would guide the Court in deciding, "whether or not the interpretation of 42 United States Code, Section 1981 adopted by the Court in *Runyon v. McCrary* (1976) should be reconsidered."¹² This conservative frontal assault was quickly rebuffed by 47 of 50 states' attorney generals and two-thirds of the U.S. Senate.¹³ In the landmark case of *Wards Cove Packing Company v. Atonio* the Court clearly placed the burden of proof of racial discrimination on the plaintiff. "As a general matter, a plaintiff must demonstrate that it is the application of a specific employment practice that has created the disparate impact under attack."¹⁴ This decision essentially eliminated the ability of an employee from filing an affirmative action complaint in court. Without the financial means to thoroughly investigate a company's hiring and promotion practices over a given period of time the plaintiff could not meet the Court's requirements. The Court no longer took a proactive affirmative action stance.

The Supreme Court, throughout its history, has not been able to determine the basis for equality or affirmative action. Their decisions have been swayed by their own beliefs, political biases, and interpretations of past Court decisions. Although by definition the Court is a non-political body their decisions carry very significant political messages.

DEFINING AFFIRMATIVE ACTION

Affirmative action, as we know it today, is an attempt by the government to provide a moral symmetry to the academic and work force playing fields, by recognizing the historical differences afforded minority groups. Affirmative action, (race based programs), is being questioned and debated by Americans. The current political environment has pitted Caucasian, Black and other minority conservatives against Caucasian, Black and other minority liberals. Influential television and radio talk show hosts, presidential candidates, and state legislatures are discussing the adequacies, purpose and constitutionality of affirmative action programs.

Current affirmative action programs use race as the divisive line in determining eligibility. Using race as a defining instrument in government policy is not new. From the founding of our nation and black slave trade, the Indian Wars of the 1800's, to the imprisonment of Japanese-Americans during World War II, to the Civil Rights Act, race has been a mitigating factor in government policies and private activities.

Should race continue to serve as a decisive factor in government policies? Shelby Steele states; "By making black the color of preference, these mandates have reburdened society with the very marriage of color and preference (in reverse) that we set out to eradicate."¹⁵ Shelby Steele acknowledges the personal advantages he was afforded because of affirmative action and the good intentions of the programs, but at the same time he

questions the overall effect affirmative action has had on society and in particular Black society.

Segregation and equality are not new issues. American politicians and the Supreme Court have taken extreme positions on both sides of the issue. There has never been a given moment in American history when all Americans were given an equal opportunity to succeed in our melting pot. Even white skinned minorities, such as the Irish, were initially chastised but gradually melted into society. Once their English language skills were fully developed they became a part of assimilated caucasian society at large. This has not been true for Asian and Black Americans. Even with compatible language skills, they, as individuals or groups, can be segregated from the rest of society based on skin color alone.

Today, America finds itself at a fork in the road of affirmative action. Do we retreat from affirmative action with the attitude that all is right, and each group or segment of our population is on equal footing to pursue life, liberty and happiness? Or do we continue to push further down the path of race based policies? Do we allow the private sector and the market forces to determine the future path, or is more government intervention necessary to insure equal opportunity? There is no easy answer or solution to all social ills. The annual national costs for regulation and compliance with affirmative action programs is estimated at between \$17 to \$20 billion.¹⁶ Are we spending this money in a justifiable manner?

SKIN COLOR

Race is not at the base of everything good or evil in America. Although race, as a singular factor, may have more of an effect on every segment of a person's life than any other issue. In the Human Rights Watch World Report 1996 it is stated that; "The climate for human rights in the United States worsened in 1995, marked by mounting evidence of the persistence and pervasiveness of racism in the criminal justice system . . ."¹⁷ Initial political and public reaction to the Oklahoma City bombing was to blame Islamic militants for the incident. Race divisions were obvious during the trial of O.J. Simpson. Race is also an issue along our southern border with illegal immigration. Race was not the only issue in each of these examples but race did play a major part in influencing Americans' opinions.

We were born with the color of our skin, it is not something we did or did not do. We can not change this critical factor in our life, but can we change the effect of skin color? Will we wallow in political rhetoric and, as Dr. Martin Luther King stated, "be dejected with a lost opportunity or will we seize the moment and provide all Americans an equal chance to succeed"?¹⁸ The statistics of past failures paint a very fuzzy picture.

In 1993, 10.9 million black Americans were living below the poverty line. While black Americans comprise only 12 percent of the population they account for 29 percent of the poor (the same as in 1960). Half of all black children are being raised by

families below the poverty line.¹⁹ These numbers highlight an American cultural failure; a failure to achieve the affirmative action goals of President Johnson's Great Society.

Individual and agency wide success stories of integration can be directly linked to affirmative action. The military services have become a much more diversified force under the guise of affirmative action. A concentrated recruiting effort is made by all services to seek out qualified minorities. These success stories often go unnoticed as the press and politicians seek out the negative effects. Whitey didn't get a job because of affirmative action.

The gap between 'haves' and 'have nots' continues to grow. Less resources are available at the lower end of the wage spectrum. Tension and competition between those at the lower end continues to increase. Meanwhile, politicians, seemingly worried only about re-election, attempt to drive a wedge between these groups. Allowing each group to believe that their security in the future is endangered by the other group. This wedge further divides and alienates poor Americans from other Americans.

Solicitor General Drew Days III, a former Yale law professor, stated, "the grounds for affirmative action were never established as solidly as they should have been."²⁰ An opposing view was expressed by then presidential candidate, Ronald Reagan, in 1980; "We must not allow, the noble concept of equal opportunity to be distorted into federal guidelines or quotas which require race, ethnicity or sex-rather than ability and

qualifications-to be the principle factor in hiring or education."

Americans can not allow politicians or radical extremist to set the agenda with sound bites or fear. Senator Jesse Helms used his "white hands" campaign spot to overtake Harvey Gantt, a black candidate, during the 1990 Senate race. The implication of this spot was obvious; minorities, through affirmative action, were taking your job, wake up white man. David Duke, a state legislator and former head of the Klu Klux Klan, came very close to winning the governorship of Louisiana.

Politicians are not the only guilty parties. At Yale University in 1993, a swastika and the words "white power" were painted on the African-American cultural center. In our cities and suburbs, shootings and stabbings, motivated only by race, occur on a daily basis. Can Americans ignore race differences and hope for better times? After twenty years of racial preferences (affirmative action) the gap between median incomes of black and white families is greater than it was in the 1970's.²¹ This is not progress.

It is forecasted that by the year 2025 caucasians will comprise less than 50% of the population. The remainder of the population and work force will be comprised of a rainbow of minorities. If we do not act to ensure that all Americans become a productive part of society our world leadership and economic prosperity can not be insured.

"In this unfolding conundrum of life and history there is such a thing as being too

late. Procrastination is still the thief of time. Life often leaves us standing bare, naked and dejected with a lost opportunity. Martin Luther King, Where Do We Go From Here? 1967²²

SKIN COLOR DOES MATTER

It is often easier for white people to "get" the fact that disadvantages shape the perspective of people of color than to get the way in which advantages shape their own take on the world.²³ White skin privilege is a birthright, a set of advantages one receives simply by being born with features that society values equally high.²⁴ White skinned people do not have to, nor are they aware of, their skin color in most of our daily lives. Seldom does one ask a white person to speak for the white race. If an employee is white and makes a mistake on the job no race is accused of being unqualified to do the job. White folks (as recently happened in Pittsburgh) are not stopped and accidentally killed by a policemen just because they are driving an expensive car. In this case the policemen were found guilty of murder, but why did they stop this man of color to begin with? Race and skin color do matter. We must acknowledge this as a society before we can move forward in achieving equality.

Race remains an issue in today's private workplaces, government agencies and educational institutions. The best qualified individual does not always receive the reward (i.e.: college scholarship, job promotion). It does not matter if the person receiving the reward is Caucasian, Black, Asian or Hispanic, the best does not always get it. Race is not the only

determining factor when a reward is given but, it has been and continues to be a major factor in our society. In the last several years, television news shows used hidden cameras to monitor equally qualified black and white males interviewing for jobs. In almost every case, the white male got the job. During follow-up interviews with the personnel managers, who performed the job interview and did the hiring, they stated that the white male was better qualified. They expressed disbelief, when it was factually demonstrated that both applicants had the same qualifications. These were not racist personnel managers, but the examples do point out the unconscious use of race in selection processes. Race does matter.

Affirmative action is not about quotas or hiring unqualified minorities at the expense of qualified white males. Affirmative action is a recognition that there is some subjectivity in almost every decision. Prior to affirmative action, and even now, this subjectivity almost always favors the white male. Affirmative action only attempts to recognize this unintentional bias and raise the awareness level of the person making a decision about a job or school admission.

Does a person's race genetically determine their ability to perform certain functions? Is a person's ability based more on opportunity and environment within a given society? Social scientists have debated this issue for years. A recent book titled The Bell Curve served to turn the flame up on this issue of genetics versus environmental effects on race differences. The

research for this book was partially subsidized by the ultrarightest foundation, Pioneer Fund.²⁵ The findings of this book are based on a theory that IQ is genetic. That is, intelligence is independent of socioeconomic and environmental factors. Some critics have charged the authors with racism and bigotry while others are defending the findings as a starting point to correct deficiencies in our society. The social scientist Thomas Sowell offered a different opinion of IQ test results in his book Ethnic America:

Like fertility rates, IQ scores differ substantially among ethnic groups at a given time, and have changed substantially over time-reshuffling the relative standings of the groups. As of about World War I, Jews scored sufficiently low on mental tests to cause a leading expert of that era to claim that the test score results "disprove the popular belief that the Jew is highly intelligent." At the time IQ scores for many of the more recently arrived ethnic groups-Italians, Greeks, Poles, Portuguese, and Slovaks-were virtually identical to those found today for blacks, Hispanics, and other disadvantaged groups. However, over the succeeding decades, as most of these immigrant groups become more acculturated and advanced economically, their IQ scores have risen by substantial amounts.²⁶

This contrasting opinion serves to fuel the debate on equality and the value of affirmative action. A key issue raised in The Bell Curve is that of the isolated cognitive elite.²⁷ This division of society based on cognitive skills could further exploit the race lines already drawn in our society. As the gap continues to widen between haves and have nots the hopes and dreams of the have nots become unattainable. Dividing society by

cognitive ability, if that cognitive ability is predetermined by birthright, could have a devastating effect on American society.

Prior to World War II, 73 percent of all black college graduates became ministers or teachers, almost all serving exclusively black constituents.²⁸ From 1940 to 1990 blacks holding white collar jobs increased from 187,520 to 1.91 million while the black population only doubled.²⁹ This advance resulted from the opportunity provided by an expanding economy and the initiative taken by Black Americans. If the findings defended in The Bell Curve are accepted, these advancements are hard to explain. Accomplishments of this magnitude could not be achieved by a genetically inferior race. If affirmative action is eliminated, will separation by cognitive group identity progress or regress? This elimination will further diminish hope for these same types of advancements.

Has the race debate of the 90's become bitter, evasive, tired and often meaningless?³⁰ Can we sit down as individuals and as a society and discuss race? Or is it a taboo subject that, by avoidance, we are only adding to discourse and problems? Are we hoping that someday we will all wake-up and have the same color skin, have the same heritage or culture, speak without accents, attend schools that offer equal opportunities to learn and live in equally safe neighborhoods?

FUTURE

Affirmative action and race is an American issue not a black

issue. Affirmative action is described by Harvard law professor Randall Kennedy as, "policies that provide preferences based explicitly on membership in a designated group."³¹ The identification of these groups in the past has been race based. While helping individuals who truly need help, these policies have made it relatively easy to divide society into groups. This division by race has resulted in the perception that middle class white taxpayers are paying for middle class black children's college education. Children with hispanic surnames receiving need-based college funds determined only by their surname. Given these as small snapshots (political sound bites) of facts, still does not alter current college and university enrollment and employment figures. White males continue to be admitted to the best universities and receive higher wages in the work force.

Not everyone will succeed in America. Not everyone has the desire or skills to succeed. We are individuals with different skills and cognitive abilities, as well as members of cultural groups. Currently, as in the past, personal successes and failures are influenced by the group a person was placed in by birth. If Americans truly believe in equal opportunity, this "birthright" must be acknowledged and compensated for. Americans must approach race as an issue that is present in everyday life.

The unequal funding of our schools is a major problem in promoting equality. If Americans are to have hope, an equal chance at success, equal education opportunities are essential. Statewide funding or equalization of public school funds are now

a reality in several states (Washington and Michigan). This type of equalization brings hope to those currently housed in crumbling inner city schools that lack basic equipment and books.

Can middle class, suburban America, continue to ignore the problems of the cities? Can white Americans continue to say, "it's a black problem, why don't they help each other?" Our economic future depends on the contributions of all Americans. As we continue to build more prisons, pay higher insurance rates, and witness an increase in crime, can we afford to say it is someone else's problem?

A debate is necessary over race and its implications. Why have so many of our poor minority youth turned to crime as a means of support? They were not born criminals. The breakdown of the family unit, declining quality of public education, the dependency on welfare are all factors which must be considered.

"In order to get beyond racism, we must first take account of race. There is no other way."
Justice Harry Blackmun, 1978.³²

My father worked in a steel mill in western Pennsylvania for thirty-eight years. For the last thirty-five he worked as a carpenter. The summer after my sophomore year in college I worked in the same steel mill and I noticed there were no black carpenters in the mill. I asked my Dad why there were no black carpenters and he told me "they" never applied, that "they" preferred the better paying jobs near the hot ovens. The question begged to be asked, "You mean in thirty-five years not one black man ever wanted to be a carpenter?" Although there was no company

policy preventing a black man from being a carpenter, hiring practices, socialization, and possibly some overt racism discouraged black men from applying. Without affirmative action, which requires personnel managers and company or government executives to review hiring practices, a continuation of the good old white boy network remains plausible.

CONCLUSION

*"The slave went free; stood a brief moment in the sun; then moved back toward slavery."*³³

Affirmative action policies need to be reviewed and discussed. Modifications should be made to insure those with the greatest need are receiving the benefits of such programs. Race should remain as a factor in determining eligibility but it should not be the primary factor. The economic situation of an individual or family must be considered as the primary factor in educational benefits. With the current economic situation the use of economic factors as the primary factor will continue to focus educational aid toward the minority communities, but will mitigate race as the primary determining factor. Until our schools can be shown to offer equal education, an affirmative action program for those graduating from deficient schools must remain in place.

In the work force, race and affirmative action must remain as a factor to promote minority hiring. There is too much evidence that demonstrates the propensity of people to hire people who look just like them. This race-based preference needs

to be offset by race based affirmative action programs.

Is America a melting pot or a boiling pot? The "pot" contains Africans, Asians, Europeans, Hispanics, and Indians (both eastern and American). We are black, yellow, white, brown, and red skinned people. We are catholics, muslims, protestants, atheists, and jewish Americans. Our boiling pot contains many ingredients and, just as a pot of soup, can turn out to be delicious. But, if we don't take care of all the ingredients and discuss the recipe can we expect to be satisfied with the results?

Race remains a divisive issue and a determining factor in American society. America's economic future depends on the ability of the society to be inclusive. During the 1992 campaign President Clinton stated, "I don't think we've got a person to waste."³⁴ This premise is key to the future of America.

The costs of discarding a potentially productive human, due to race based prejudice, is far greater today than ever before. Prison populations are increasing. Wide disparities in the quality of public education exist. We are competing in a world economy that requires all Americans to contribute. The fabric of American society is based on the American dream of hope and the ability to climb the economic ladder of success. If we exclude and isolate a portion of the work force, we cripple the entire society. The costs of this isolation are not only lost production capability but also the costs of the loss of hope and a desire to participate within this society. Life without meaning, hope, and

love breeds a cold hearted, mean-spirited outlook that destroys both the individual and others.³⁵ We must find a way to allow and encourage each American to contribute in a positive manner. Affirmative action does more than merely open the door. It forces Americans to confront race as part of our decision making process.

Affirmative action, not race based, is present and exists in all segments of our society. Children of Harvard alumnus are three times more likely to be accepted by Harvard than their high school peers.³⁶ Dartmouth admitted 57 percent of their graduates' children as compared to 27 percent of the non-connected high school graduates.³⁷ Government investigators, in both of these situations, found that the alumnus children were not as qualified as the remainder of the student body and far outnumbered the number of minority students admitted under the guise of affirmative action.³⁸ Affirmative action for Ivy league offspring is not the goal of a true beneficial program.

This same type of preferential treatment exists in my Father's carpenter union, at Fortune 500 companies, who hire offspring of employees, and at the local hardware store, where the manager hires a friend of his son or daughter. Affirmative action will not prevent nor completely stop preferential treatment within our society; but it will force conscientious Americans to consider race as a factor in their decision making processes. The door must not only remain open, but rather the majority must venture out that door and invite the minority in.

This requirement, or push from the government, will give us a better chance of achieving a society that judges members, not by their skin color, but rather by their contributions to this society.

It is true, as Shelby Steele stated, ". . . there is a real anti-black sentiment in American life, but not as powerful as we remember it."³⁹ Without affirmative action organizations, businesses, and government agencies will no longer be required to seek out and provide a glimmer of hope for minority students or employees. The price of the loss of hope is already evident within the inner city. I believe affirmative action provides the best vehicle to restore and renew this hope and the American dream. When it can be demonstrated, that all men are truly created and nurtured equally by society, then government sponsored affirmative action will not be necessary.

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